

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT D. NICKLOW, SR.,

Plaintiff,

v.

**TRANS UNION, LLC AND EQUIFAX
INFORMATION SERVICES LLC AND
EXPERIAN INFORMATION
SOLUTIONS, INC.**

Defendants.

Civil Action No.: 2:12-cv-00665-MRH

Electronically Filed

**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT EXPERIAN
INFORMATION SOLUTIONS, INC. TO PLAINTIFF'S COMPLAINT**

NOW COMES Defendant Experian Information Solutions, Inc. (“Experian”), by its undersigned counsel, and in answer to Plaintiff’s Complaint, states as follows:

RESPONSE TO PRELIMINARY STATEMENT

1. In response to paragraph 1 of the Complaint, Experian admits that Plaintiff has described his claim as being based on the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.* Experian states that this is a legal conclusion which is not subject to denial or admission.

2. In response to paragraph 2 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 2 of the Complaint.

RESPONSE TO JURISDICTION

3. In response to paragraph 3 of the Complaint, Experian states that the allegations contained therein are legal conclusions which are not subject to denial or admission.

RESPONSE TO PARTIES

4. In response to paragraph 4 of the Complaint, Experian admits that 15 U.S.C. § 1681a(c) defines a “consumer” as “an individual.” Except as specifically admitted, Experian is

without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 4 of the Complaint and on that basis denies, generally and specifically, each and every remaining allegation contained therein.

5. In response to paragraph 5 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 5 of the Complaint.

6. In response to paragraph 6 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 6 of the Complaint.

7. In response to paragraph 7 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 7 of the Complaint.

8. In response to paragraph 8 of the Complaint, Experian admits that it is an Ohio Corporation, with its principal place of business in Costa Mesa, California. Experian further states that the allegations in paragraph 8 that Experian “is a corporation authorized to do business in the State of Pennsylvania through its registered offices” are conclusions of law to which no response is required. Except as specifically admitted, Experian denies, generally and specifically, each and every remaining allegation of paragraph 8 of the Complaint.

9. In response to paragraph 9 of the Complaint, Experian states that the allegations contained therein are legal conclusions for which no response is required. To the extent a response is required, Experian admits that it is a “person” and “consumer reporting agency” as those terms are defined, respectively, by 15 U.S.C. § 1681a(b) and § 1681a(f). Additionally, Experian admits that, as a consumer reporting agency, it issues consumer reports as defined by

15 U.S.C. § 1681a(d). Except as specifically admitted, Experian is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 9 of the Complaint and on that basis denies, generally and specifically, each and every remaining allegation contained therein.

10. In response to paragraph 10 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 10 of the Complaint.

11. In response to paragraph 11 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 11 of the Complaint.

12. In response to paragraph 12 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 12 of the Complaint.

13. In response to paragraph 13 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 13 of the Complaint.

14. In response to paragraph 14 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 14 of the Complaint.

RESPONSE TO FACTUAL ALLEGATIONS

15. In response to paragraph 15 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 15 of the Complaint.

16. In response to paragraph 16 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 16 of the Complaint.

17. In response to paragraph 17 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 17 of the Complaint.

18. In response to paragraph 18 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 18 of the Complaint.

19. In response to paragraph 19 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 19 of the Complaint.

20. In response to paragraph 20 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 20 of the Complaint.

21. In response to paragraph 21 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 21 of the Complaint.

**RESPONSE TO COUNT ONE: 15 U.S.C. 1681I(A)(1)
(EQUIFAX, EXPERIAN, AND TRANS UNION)**

22. In response to paragraph 22 of the Complaint, Experian repeats, reiterates, and re-alleges each and every answer to the allegations in paragraphs 1-21, inclusive, of the Complaint, with the same force and effect as if set forth at length herein.

23. In response to paragraph 23 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 23 of the Complaint.

24. In response to paragraph 24 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 24 of the Complaint.

25. In response to paragraph 25 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 25 of the Complaint.

26. In response to paragraph 26 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as

to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 26 of the Complaint.

**RESPONSE TO COUNT TWO: 15 U.S.C. 1681I(A)(2)
(EQUIFAX, EXPERIAN AND TRANS UNION)**

27. In response to paragraph 27 of the Complaint, Experian repeats, reiterates, and re-alleges each and every answer to the allegations in paragraphs 1-26, inclusive, of the Complaint, with the same force and effect as if set forth at length herein.

28. In response to paragraph 28 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 28 of the Complaint.

29. In response to paragraph 29 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 29 of the Complaint.

30. In response to paragraph 30 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 30 of the Complaint.

31. In response to paragraph 31 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a

response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 31 of the Complaint.

**RESPONSE TO COUNT THREE: 15 U.S.C. 1681I(A)(4)
(EQUIFAX, EXPERIAN, AND TRANS UNION)**

32. In response to paragraph 32 of the Complaint, Experian repeats, reiterates, and re-alleges each and every answer to the allegations in paragraphs 1-31, inclusive, of the Complaint, with the same force and effect as if set forth at length herein.

33. In response to paragraph 33 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 33 of the Complaint.

34. In response to paragraph 34 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 34 of the Complaint.

35. In response to paragraph 35 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 35 of the Complaint.

36. In response to paragraph 36 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 36 of the Complaint.

**RESPONSE TO COUNT FOUR: 15 U.S.C. 1681I(A)(5)(A)
(EQUIFAX, EXPERIAN AND TRANS UNION)**

37. In response to paragraph 37 of the Complaint, Experian repeats, reiterates, and re-alleges each and every answer to the allegations in paragraphs 1-36, inclusive, of the Complaint, with the same force and effect as if set forth at length herein.

38. In response to paragraph 38 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 38 of the Complaint.

39. In response to paragraph 39 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 39 of the Complaint.

40. In response to paragraph 40 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as

to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 40 of the Complaint.

41. In response to paragraph 41 of the Complaint, Experian states that the allegations contained therein are legal conclusions to which no response is required. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation of paragraph 41 of the Complaint.

RESPONSE TO PRAYER FOR RELIEF

Experian denies the allegations contained in the unnumbered paragraph following paragraph 41 of the Complaint beginning with “WHEREFORE” and specifically denies that Plaintiff is entitled to judgment against, or any relief whatsoever from, Experian in this action.

RESPONSE TO JURY TRIAL DEMAND

Experian admits that Plaintiff demands trial by jury on all issues so triable.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE **(Failure to State a Claim)**

The Complaint herein, and each cause of action thereof, fails to set forth facts sufficient to state a claim upon which relief may be granted against Experian and further fails to state facts sufficient to entitle Plaintiff to the relief sought, or to any other relief whatsoever from Experian.

SECOND AFFIRMATIVE DEFENSE **(Estoppel)**

Any damages which Plaintiff may have suffered, which Experian continues to deny, were the direct and proximate result of the conduct of Plaintiff. Therefore, Plaintiff is estopped and barred from recovery of any damages.

THIRD AFFIRMATIVE DEFENSE
(Willful Violations)

Plaintiff's claims against Experian for willful violations fail, as any violation found to have been committed by Experian was negligent rather than willful.

FOURTH AFFIRMATIVE DEFENSE
(Statute of Limitations)

Plaintiff's claims against Experian are barred, in whole or in part, by the applicable statutes of limitation and statutes of repose.

FIFTH AFFIRMATIVE DEFENSE
(Failure to Join Indispensable Parties)

Plaintiff's claims fail, in whole or in part, because he has failed to join all necessary and/or indispensable parties to this suit, as required by Federal Rule of Civil Procedure 19.

SEVENTH AFFIRMATIVE DEFENSE
(Truth/Accuracy of Information)

All of Plaintiff's claims against Experian are barred because all information Experian communicated to any third person regarding Plaintiff was true.

EIGHTH AFFIRMATIVE DEFENSE

Any claim for statutory, punitive, or exemplary damages violates Experian's right to due process of law under the United States Constitution.

NINTH AFFIRMATIVE DEFENSE
(Right to Assert Additional Defenses)

Experian reserves the right to assert additional affirmative defenses at such time and to such extent as warranted by discovery and the factual developments in this case.

WHEREFORE, Defendant Experian Information Solutions, Inc. prays as follows:

- (1) That Plaintiff take nothing by virtue of the Complaint herein and that this action be dismissed in its entirety;
- (2) For costs of suit and attorneys' fees herein incurred; and
- (3) For such other and further relief as the Court may deem just and proper.

Dated: June 20, 2012

Respectfully submitted,

/s/ Kevin C. Meacham
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***Counsel for Defendant
Experian Information Solutions, Inc.***

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2012, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on counsel of record identified via transmission of Notices of Electronic Filing generated by CM/ECF.

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